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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,896	04/20/2004	Clement B. Edgar III	PA716D1C1	5845

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QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

EXAMINER
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HOM, SHICK C

ART UNIT	PAPER NUMBER
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2616

NOTIFICATION DATE	DELIVERY MODE
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04/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/828,896	<b>Applicant(s)</b> EDGAR ET AL.	
	<b>Examiner</b> SHICK C. HOM	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objections*

1. Claim 14 is objected to because of the following informalities: In claim 14 lines 2, 4, 6, the words "a packet" seem to refer back to the "packet" recited in claim 10 line 5. If this is true, it is suggested changing "a packet" to ---the packet---. Appropriate correction is required.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,266,540. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claim 1 merely broaden the scope of the U.S. Patent no. 6,266,540 claim 1 by eliminating

the transceiver that communicates with a central station being a radio antenna unit in a wireless communications system;

wherein said interface bus interface transceiver and said desk-sets exchange packets over said interface bus, each packet comprising: an address (ADDR) byte that includes source and destination addresses of the packet; a command (CMD) byte; an argument (ARG); and a block check character (BCC) for error checking; and

wherein said BCC is produced by a longitudinal parity check.

The limitation eliminated in the application's independent claim 1; wherein said interface bus interface transceiver and said desk-sets exchange packets over said interface bus, each packet comprising: an address (ADDR) byte that includes source

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and destination addresses of the packet; a command (CMD) byte; an argument (ARG); and a block check character (BCC) for error checking is now merely recited in the application's dependent claim 2; and

wherein said BCC is produced by a longitudinal parity check is now merely claimed in the application's dependent claim 3.

Likewise the scope of U.S. Patent no. 6,266,540 dependent claim 2 which recite wherein each packet further comprises a start of header (SOH) byte that indicates the start of the packet is now recited in application's dependent claim 5;

Claim 3 which recite wherein said interface bus comprises a pair of conductors is now recited in application's dependent claim 6;

Claim 4 which recite wherein said interface bus comprises an unshielded twisted pair is now recited in application's dependent claim 7;

Claim 5 which recite wherein said interface bus comprises an EIA- 485 interface is now recited in application's dependent claim 8.

Therefore, the application's claims 1-2 and 4 merely broaden the scope of the U.S. Patent no. 6,266,540 claim 6 by eliminating the transceiver that communicates with a central

station being a radio antenna unit in a wireless communications system.

Likewise, the application's claims 1 and 9 merely broaden the scope of the U.S. Patent no. 6,266,540 claim 9 by eliminating the transceiver that communicates with a central station being a radio antenna unit in a wireless communications system and said desk-sets exchange packets over said interface bus, each packet comprising: an address (ADDR) byte that includes source and destination addresses of the packet; a command (CMD) byte; an argument (ARG); and a block check character (BCC) for error checking.

4. Claims 10 and 12-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,724,753. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application's claim 10 merely broaden the scope of the U.S. Patent No. 6,724,753 claim 1 by eliminating the

the step of sending a reboot command from the common node to said one of the terminals when the number of missed packets exceeds a predetermined threshold;

the step of sending a reboot command from the common node to said one of the terminals when a NAK is received at the common node from said one of the terminals; and

the steps of: determining that a packet is new when the sequence number in the current packet is one greater than the sequence number in the previous packet; determining that a packet is repeated when the sequence number in the current packet equals the sequence number in the previous packet; determining that a packet is repeated when the sequence number in the current packet is N less than the sequence number in the previous packet, where N is a predetermined threshold; and detecting a bad sequence number otherwise. However, the step of sending a reboot command due to exceeded threshold and when a NAK is received is now recited in dependent claims 12 and 13, respectively, and the steps of determining packet is new or repeated is now recited in dependent claim 14.

It has been held that the omission of a element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ (CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al. (5,793,751).

Baker et al. disclose a telephone apparatus (col. 2 lines 14-64 and Fig. 1 recites and shows the telephone switching equipment), comprising:

a transceiver that communicates with a central station;

a plurality of desksets (Fig. 1 show the transceiver 103 connected to the central office 100 and the terminals); and

an interface bus that permits said desksets to communicate with said transceiver (Fig. 1 shows the bus 104 connecting the terminals with the transceiver 103 as claimed).

***Claim Rejections - 35 USC § 103***



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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (5,793,751) in view of Harris, Jr. et al. (5,754,769).

For claims 6-9, Baker et al. disclose the telephone apparatus described in paragraph 6 of this office action. Baker et al. disclose all the subject matter of the claimed invention with the exception of wherein said interface bus comprises a pair of conductors as in claim 6; wherein said interface bus comprises an unshielded twisted pair as in claim 7; wherein said interface bus comprises an EIA-485 interface as in claim 8; and wherein a media access layer of said interface bus is carrier sense multiple access with collision detect as in claim 9.

Harris Jr. et al. from the same or similar fields of endeavor teach coupling between networks whereby it is known to provide wherein said interface bus comprises a pair of conductors; wherein said interface bus comprises an unshielded twisted pair; and wherein said interface bus comprises an EIA-485 interface (col. 3 lines 38-56 recite use of unshielded twisted pair as pair of conductors in an interface bus that support RS-485 cabling standard). Further, examiner takes official notice that the use of carrier sense multiple access with collision detect is well-known in the art (see pertinent reference cited in the conclusion).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide wherein said interface bus comprises a pair of

conductors; wherein said interface bus comprises an unshielded twisted pair; and wherein said interface bus comprises an EIA-485 interface as taught by Harris, Jr. et al. in the apparatus of Baker et al.

The interface bus comprising a pair of conductors; wherein said interface bus comprises an unshielded twisted pair; and wherein said interface bus comprises an EIA-485 interface can be implemented by using the pair of conductors; wherein said interface bus comprises an unshielded twisted pair; and wherein said interface bus comprises an EIA-485 interface of Harris, Jr. et al. for connecting the terminals and transceiver of Baker et al.

The motivation for providing the interface bus comprising a pair of conductors; wherein said interface bus comprises an unshielded twisted pair; and wherein said interface bus comprises an EIA-485 interface as taught by Harris, Jr. et al. in the communication apparatus of Baker et al. being that it provides more efficiency for the system since the system uses lower cost pair of conductors, i.e. an unshielded twisted pair, as a bus for connecting the terminals and more efficiency for the system because it uses a well-known standard bus, i.e. EIA-485 bus interface, for communication.

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9. Claims 10-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sabaa et al. (6,389,016).

Regarding claim 10:

Sabaa et al. disclose a communication system having a plurality of terminals connected to a common node by a digital interface bus, a method for handling error control for packets sent to the terminals by the common node, each packet having modulo-sequential sequence numbers (the abstract recite sending packets having sequence numbers to a plurality of groups and detecting out-of-sequence error), comprising the steps of:

sending a packet from the common node to one of the terminals; and

sending a negative acknowledgment (NAK) from said one of the terminals to the common node when an error or unexpected sequence number is detected in said packet (col. 2 line 63 to col. 3 line 63 recite sending a negative acknowledgment if an unexpected sequence number is received).

Regarding claims 11-13 and 15-16:

Sabaa et al. disclose the step of re-sending any lost packets from the common node to said one of the terminals when an unexpected sequence number is detected; the step of sending a reboot command from the common node to said one of the terminals

when the number of missed packets exceeds a predetermined threshold; and the step of sending a reboot command from the common node to said one of the terminals when a NAK is received at the common node from said one of the terminals; the step of detecting an error based on a block check character in said one of the packets; the step of detecting an error when a predetermined period elapses between receipt of successive characters in said one of the packets (col. 6 lines 49-56 recite following the negative acknowledgment the sender retransmits the packet and the abstract recite detecting and recovering from error).

Sabaa et al. disclose all the subject matter of the claimed invention with the exception of wherein said NAK includes the sequence number of the last valid packet received.

However, Sabaa et al. teach, in col. 2 line 63 to col. 3 line 63, that it is known to provide a positive acknowledgment if received packet matches or smaller than the expected sequence number).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the sequence number of the last valid packet received as in the positive acknowledgment of Sabaa et al. in the NAK.

The NAK including the sequence number of the last valid packet received can be implemented by providing the last valid packet received of the positive acknowledgment of Sabaa et al. in the NAK of Sabaa et al. The motivation for providing wherein said NAK includes the sequence number of the last valid packet received being that it provides more efficiency for the system since the system makes the status of the sequence number of the last valid packet received known whether an error have occurred or not at the receiving end in order to be more quickly and better informed of the status of the system.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Higgins discloses a real time Ethernet protocol.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHICK C. HOM whose telephone number is (571)272-3173. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pham Chi can be reached on 571-272-3179. The fax phone number for the organization

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where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SH

/Chi H Pham/

Supervisory Patent Examiner, Art Unit 2616

3/26/08